

108TH CONGRESS
1ST SESSION

S. 1492

To amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Labor Management Relations Act, 1947 to provide special rules for Teamster plans relating to termination and funding.

IN THE SENATE OF THE UNITED STATES

JULY 30 (legislative day, JULY 21), 2003

Mr. CHAMBLISS introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Labor Management Relations Act, 1947 to provide special rules for Teamster plans relating to termination and funding.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Multiemployer Pension
5 Security Act of 2003”.

1 **SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
 2 **COME SECURITY ACT OF 1974 RELATING TO**
 3 **TERMINATION INSURANCE PROGRAM.**

4 (a) TEAMSTER PLAN DEFINED.—Section 4001(a) of
 5 the Employee Retirement Income Security Act of 1974
 6 (29 U.S.C. 1301(a)) is amended—

7 (1) in paragraph (21), by striking the period at
 8 the end and inserting “; and”; and

9 (2) by adding at the end the following new
 10 paragraph:

11 “(22) ‘teamster plan’ means a plan—

12 “(A) to which more than one employer is
 13 required to contribute,

14 “(B) which is maintained pursuant to one
 15 or more collective bargaining agreements be-
 16 tween The International Brotherhood of Team-
 17 sters, Chauffeurs, Warehousemen and Helpers
 18 of America or its locals and more than one em-
 19 ployer, and

20 “(C) which satisfies such other require-
 21 ments as the Secretary of Labor may prescribe
 22 by regulation.”.

23 (b) MODIFICATION OF LIABILITY PROVISIONS.—

24 (1) AMOUNTS PAYABLE BY THE CORPORA-
 25 TION.—Section 4061 of such Act (29 U.S.C. 1361)
 26 is amended by striking “subtitle B” and inserting

1 “subtitles B and G” in the first sentence thereof and
 2 inserting “or subtitle G” after “4022A” in the third
 3 sentence thereof.

4 (2) LIABILITY UNDER DISTRESS TERMINATION
 5 OR A TERMINATION BY THE CORPORATION.—Section
 6 4062 of such Act (29 U.S.C. 1362) is amended by
 7 inserting “or subtitle G” after “4041(c)” in sub-
 8 section (a) thereof.

9 (c) MODIFICATION OF ENFORCEMENT PROVI-
 10 SIONS.—Section 4070 of such Act (29 U.S.C. 1370) is
 11 amended—

12 (1) by inserting “AND TEAMSTER PLANS”
 13 after “SINGLE-EMPLOYER PLANS” in the title
 14 thereof;

15 (2) by inserting at the end of subsection (a) the
 16 following flush sentence:

17 “A plan fiduciary, contributing sponsor, member of a con-
 18 tributing sponsor’s controlled group, participant, or bene-
 19 ficiary who is adversely affected by the act or omission
 20 of any party (other than the corporation) under subtitle
 21 G with respect to a teamster plan, or an employee organi-
 22 zation which represents such a plan participant or bene-
 23 ficiary for purposes of collective bargaining, may bring an
 24 action for appropriate legal or equitable relief, or both.”;

1 (3) by inserting in each of subsections (a) and
 2 (b) “or a teamster plan” after “single-employer
 3 plan” each time it appears in each such subsection;
 4 and

5 (4) by inserting “, and in the case of a teamster
 6 plan, where the defendant does business” at the end
 7 of the second sentence of subsection (c).

8 (d) SPECIAL PROVISIONS FOR TEAMSTER PLANS.—

9 (1) IN GENERAL.—Title IV of such Act (29
 10 U.S.C. 1301 et seq.) is amended by adding at the
 11 end the following new subtitle:

12 **“Subtitle G—Special Provisions for**
 13 **Teamster Plans**

14 **“SEC. 4501. TREATMENT OF TEAMSTER PLANS.**

15 “(a) GENERAL RULE.—For purposes of this title, a
 16 teamster plan shall not be treated as a multiemployer
 17 plan, and each employer that has an obligation to con-
 18 tribute to a teamster plan shall be treated as a contrib-
 19 uting sponsor maintaining a separate single-employer
 20 plan, as provided in this subtitle.

21 “(b) PARTITION OF LIABILITIES.—

22 “(1) IN GENERAL.—As of the first day of the
 23 first plan year for which this subtitle is effective, the
 24 transition liabilities of each teamster plan shall be
 25 allocated among those persons that are, as of such

1 date, the contributing employers of the plan, in ac-
2 cordance with this subsection.

3 “(2) TRANSITION LIABILITIES.—For purposes
4 of this subtitle, ‘transition liabilities’ means the sum
5 of—

6 “(A) the accrued liability for the benefits
7 under the plan (as a whole, as if such plan were
8 treated as a single multiemployer plan rather
9 than a collection of single-employer plans but
10 taking into account the requirements of section
11 308) attributable as of the first day of the first
12 plan year for which this subtitle is effective to
13 participants who, as of such date, are not em-
14 ployed in credited service for any employer
15 under such plan, and

16 “(B) the accrued liability for the benefits
17 under the plan (as a whole, as if such plan were
18 treated as a single multiemployer plan rather
19 than a collection of single-employer plans but
20 taking into account the requirements of section
21 308) attributable, as of the first day of the first
22 plan year for which this subtitle is effective, to
23 the credited service of participants (other than
24 participants described in (A)) with an employer

1 that, as of such date, does not have an obliga-
2 tion to contribute to the teamster plan.

3 “(3) METHOD OF ALLOCATION.—

4 “(A) Transition liabilities shall be allocated
5 under paragraph (1) with respect to each team-
6 ster plan among those employers who have an
7 obligation to make contributions to such plan as
8 of the first day of the first plan year for which
9 this subtitle is effective.

10 “(B) Each employer’s share of the transi-
11 tion liabilities shall equal the product derived by
12 multiplying—

13 “(i) the transition liabilities of the
14 plan (as a whole, as if such plan were
15 treated as a single multiemployer plan
16 rather than a collection of single-employer
17 plans, but taking into account the require-
18 ments of section 308), by

19 “(ii) a percentage determined as of
20 the first day of the first plan year for
21 which this subtitle is effective by divid-
22 ing—

23 “(I) the sum of the contributions
24 required to be made under such plan

1 by the employer for the 5 preceding
2 plan years, by

3 “(II) the sum of the contribu-
4 tions required to be made by all such
5 employers for the 5 preceding plan
6 years.

7 “(4) ANTICIPATION OF BENEFIT INCREASES.—
8 For purposes of this subsection, in determining ac-
9 crued liability, the funding method of a plan shall
10 anticipate benefit increases scheduled to take effect
11 during the term of the collective bargaining agree-
12 ment or agreements applicable to the plan.

13 “(c) PARTITION OF ASSETS.—

14 “(1) IN GENERAL.—As of the first day of the
15 first plan year for which this subtitle is effective, the
16 assets of each teamster plan shall be allocated
17 among those persons who are, as of such date, the
18 contributing employers of the plan, in accordance
19 with this subsection.

20 “(2) METHOD OF ALLOCATION.—The assets of
21 the teamster plan shall be allocated, based on fair
22 market value as of the first day of the first plan
23 year for which this subtitle is effective, among those
24 employers who have, as of such date, an obligation
25 to contribute to the plan. The portion allocated to

1 each such employer shall be equal to the product de-
 2 rived by multiplying—

3 “(A) the funded percentage for the team-
 4 ster plan, by

5 “(B) the employer’s share of the accrued
 6 liability for the plan (as a whole, as if such plan
 7 were treated as a single multiemployer plan
 8 rather than a collection of single-employer plans
 9 but taking into account the requirements of sec-
 10 tion 308), as of such date.

11 “(3) FUNDED PERCENTAGE.—For purposes of
 12 this subsection, ‘funded percentage’, in connection
 13 with a plan, means the percentage obtained by divid-
 14 ing—

15 “(A) the fair market value of plan assets
 16 (as a whole, as if such plan were treated as a
 17 single multiemployer plan rather than a collec-
 18 tion of single-employer plans but taking into ac-
 19 count the requirements of section 308), includ-
 20 ing receivables, as of the first day of the first
 21 plan year for which this subtitle is effective, by

22 “(B) the accrued liability for the plan (as
 23 a whole, as if such plan were treated as a single
 24 multiemployer plan rather than a collection of
 25 single-employer plans but taking into account

1 the requirements of section 308), as of such
2 date.

3 “(4) INVESTMENT OF PLAN ASSETS.—The as-
4 sets of a teamster plan shall be invested by the
5 trustees as one master trust and each contributing
6 employer’s share of the assets of the plan shall be
7 adjusted annually according to master trust account-
8 ing principles for the employer’s plan contributions,
9 benefit payments with respect to its ongoing liability
10 and transition liability (if any), and share of invest-
11 ment returns and administrative expenses.

12 “(5) ANTICIPATION OF BENEFIT INCREASES.—
13 For purposes of this subsection, in determining ac-
14 crued liability, the funding method of a plan shall
15 anticipate benefit increases scheduled to take effect
16 during the term of the collective bargaining agree-
17 ment(s) applicable to the plan.

18 “(d) SINGLE-EMPLOYER PLAN BENEFITS GUARAN-
19 TEED.—Notwithstanding any limitations otherwise appli-
20 cable under section 4022(b), the corporation shall guar-
21 antee 100 percent of the transition liabilities of each team-
22 ster plan.

23 “(e) PREMIUM RATES.—

24 “(1) IN GENERAL.—For purposes of section
25 4006—

1 “(A) the premium rates charged by the
2 corporation for teamster plans shall be the
3 same as the premium rates charged by the cor-
4 poration for single-employer plans, and

5 “(B) each employer that has an obligation
6 to contribute to a teamster plan shall be re-
7 sponsible for paying the premiums attributable
8 to the single-employer plan the employer is
9 treated as maintaining pursuant to this subtitle.

10 “(2) PHASE-IN OF ADDITIONAL PREMIUM.—The
11 amount of the additional premium determined under
12 section 4006(a)(3)(E) with respect to a teamster
13 plan shall be phased in over 10 plan years, begin-
14 ning with the first plan year for which this subtitle
15 is effective, so that the additional premium shall
16 take effect during the 10-year period in annual in-
17 crements taking effect for each year, each of which
18 is equal to 10 percent of the full increase that would
19 otherwise apply for such plan year, resulting in ap-
20 plication of the full additional premium effective
21 with the final plan year in such period and each plan
22 year thereafter.

23 “(3) CONTRIBUTION OF PREMIUMS TO TEAM-
24 STER PLAN.—The corporation may allow an em-
25 ployer to contribute all or part of the additional pre-

1 mium determined under section 4006(a)(3)(E) di-
2 rectly to the teamster plan, in lieu of payment to the
3 corporation, to the extent that the corporation deter-
4 mines in its discretion that such contribution would
5 be in the best interests of participants and bene-
6 ficiaries.

7 “(f) PLAN TERMINATION.—

8 “(1) IN GENERAL.—An employer that has an
9 obligation to contribute to a teamster plan may ter-
10 minate its participation in such plan in either a
11 standard termination or a distress termination, as
12 provided in this subsection.

13 “(2) STANDARD TERMINATION.—An employer
14 that has an obligation to contribute to a teamster
15 plan may terminate its participation in such plan in
16 a standard termination by following procedures es-
17 tablished by the corporation similar to those that
18 apply to a plan administrator in a standard termi-
19 nation of a single-employer plan under section 4041.
20 For purposes of this paragraph, the employer shall
21 be deemed to have satisfied its obligations to the
22 teamster plan if—

23 “(A) the employer obtains an irrevocable
24 commitment from an insurer satisfactory to the

1 corporation to pay its benefit liabilities under
2 such plan, or

3 “(B) the corporation agrees to assume the
4 employer’s obligation to contribute to the plan
5 and make contributions under the teamster
6 plan pursuant to such terms and conditions as
7 shall be satisfactory to the corporation and the
8 teamster plan.

9 “(3) DISTRESS TERMINATION.—An employer
10 that has an obligation to contribute to a teamster
11 plan may terminate its participation in such plan in
12 a distress termination by following procedures estab-
13 lished by the corporation similar to those that apply
14 to a plan administrator in a distress termination of
15 a single-employer plan under section 4041, including
16 meeting the necessary distress criteria under prin-
17 ciples similar to those described in section
18 4041(c)(2)(B).

19 “(4) APPLICATION OF CERTAIN TERMINATION
20 PROVISIONS.—Upon an employer’s termination of its
21 participation in a teamster plan in either a standard
22 termination or a distress termination, sections 4044,
23 4045, 4046, and 4050 shall apply to the plan ad-
24 ministrator of such plan in a manner consistent with
25 the treatment of such employer as a contributing

1 sponsor of a single-employer plan under this subtitle.
2 The corporation may institute termination pro-
3 ceedings against a teamster plan or an employer's
4 participation in a teamster plan under section 4042,
5 and the provisions of such section shall be applied
6 to such termination proceedings in a manner con-
7 sistent with the treatment of the teamster plan as
8 a collection of single-employer plans.

9 “(5) CONTRIBUTION OF ASSETS REMAINING
10 AFTER STANDARD TERMINATION TO LIABILITIES OF
11 OTHER CONTRIBUTING EMPLOYERS.—Any assets
12 that remain allocated under a teamster plan to an
13 employer after the termination of the employer's
14 participation in the plan in a standard termination
15 under paragraph (2) shall be applied on a pro rata
16 basis toward satisfaction of the benefit liabilities of
17 the remaining employers that contribute to the
18 teamster plan based on such liabilities.

19 “(g) OBLIGATION TO FURNISH INFORMATION.—The
20 trustees of a teamster plan shall furnish to each employer
21 that has an obligation to contribute to such plan, within
22 30 days of an employer's written request, such reports,
23 records, documents, or other information as the employer
24 reasonably determines are necessary to enable the em-
25 ployer to determine the liabilities and assets of the team-

1 ster plan attributable to such employer and to comply with
 2 such employer's funding obligations under section 308.
 3 The trustees shall be personally liable to an employer for
 4 any failure to furnish such information required to be fur-
 5 nished under this subsection and may in the court's discre-
 6 tion be liable to such employer in the amount of up to
 7 \$100 a day from the date of such failure, and the court
 8 may in its discretion order such other relief as it deems
 9 proper. In any action under this subsection, the court in
 10 its discretion may allow a reasonable attorney's fee and
 11 costs of action to either party."

12 (2) CLERICAL AMENDMENT.—The table of con-
 13 tents in section 1 of such Act is amended—

14 (A) by amending the item relating to sec-
 15 tion 4070 to read as follows:

"Sec. 4070. Enforcement authority relating to terminations of single-employer
 plans and teamster plans."

16 and

17 (B) by adding at the end the following new
 18 items:

"Subtitle G—Special Provisions for Teamster Plans

"Sec. 4501. Treatment of teamster plans."

19 (e) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to plan years beginning after De-
 21 cember 31, 2003.

1 **SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
 2 **COME SECURITY ACT RELATING TO FUNDING**
 3 **REQUIREMENTS.**

4 (a) NOTICE REQUIREMENT RELATING TO FAILURE
 5 TO MEET MINIMUM FUNDING STANDARD.—Section
 6 101(d) of the Employee Retirement Income Security Act
 7 of 1974 (29 U.S.C. 1021(d)) is amended by adding at the
 8 end the following new paragraph:

9 “(4) TEAMSTER PLANS.—For purposes of this
 10 subsection, effective as of the funding effective date
 11 (as defined in section 308(b)(11)), a teamster plan
 12 (as defined in section 4001(a)(22)) shall not be
 13 treated as a multiemployer plan, and each employer
 14 that has an obligation to contribute to a teamster
 15 plan shall be treated as an employer maintaining a
 16 separate single-employer plan, as provided in section
 17 308.”.

18 (b) RULE RELATING TO PROHIBITION ON BENEFIT
 19 INCREASES WHILE SPONSOR IN BANKRUPTCY.—Section
 20 204(i) of such Act (29 U.S.C. 1054(i)) is amended—

21 (1) by redesignating paragraph (4) as para-
 22 graph (5); and

23 (2) by inserting after paragraph (3) the fol-
 24 lowing new paragraph:

25 “(4) SPECIAL RULE FOR TEAMSTER PLANS.—
 26 For purposes of this subsection, a teamster plan (as

1 defined in section 4001(a)(22)) shall not be treated
 2 as a multiemployer plan. This subsection shall be
 3 applied separately with respect to each employer
 4 that has an obligation to contribute to a teamster
 5 plan, and the funded current liability percentage for
 6 purposes of paragraph (3) shall be determined in ac-
 7 cordance with section 308.”.

8 (c) SPECIAL FUNDING RULES FOR TEAMSTER
 9 PLANS.—

10 (1) IN GENERAL.—Part 3 of subtitle B of title
 11 I of such Act is amended—

12 (A) by redesignating section 308 (29
 13 U.S.C. 1086) as section 309; and

14 (B) by inserting after section 307 (29
 15 U.S.C. 1085b) the following new section:

16 **“SEC. 308. TEAMSTER PLANS.**

17 “(a) IN GENERAL.—For purposes of this part other
 18 than section 302(d), a teamster plan within the meaning
 19 of section 4001(a)(22) shall not be treated as a multiem-
 20 ployer plan, and each employer that has an obligation to
 21 contribute to a teamster plan shall be treated as a contrib-
 22 uting sponsor maintaining a single-employer plan, subject
 23 to the special rules of subsection (b).

24 “(b) SPECIAL RULES.—

1 “(1) FUNDING STANDARD ACCOUNT.—A fund-
 2 ing standard account shall be established and main-
 3 tained for each employer that has an obligation to
 4 contribute to a teamster plan. In determining the
 5 funding standard account under section 302(b) for
 6 each such employer—

7 “(A) subsections (b)(2)(B)(i) and
 8 (b)(2)(B)(ii) of section 302 shall not apply;

9 “(B) in the case of a teamster plan in ef-
 10 fect on the first day of the first plan year for
 11 which this section is effective, the funding
 12 standard account shall be charged with—

13 “(i) the amount necessary to amortize
 14 in equal annual installments (until fully
 15 amortized) the employer’s unfunded past
 16 service liability over a period of 30 plan
 17 years, and

18 “(ii) the amount necessary to amor-
 19 tize over a period of 10 plan years in equal
 20 annual installments (until fully amortized)
 21 the credit determined under section
 22 308(b)(1)(C)(ii) for the immediately pre-
 23 ceding plan year; and

24 “(C) in the case of a teamster plan in ef-
 25 fect on the first day of the first plan year for

1 which this section is effective, the funding
2 standard account shall be credited with—

3 “(i) the amount necessary to amortize
4 in equal annual installments (until fully
5 amortized) the excess (if any) of the em-
6 ployer’s initial market value of assets over
7 the employer’s teamster plan accrued li-
8 ability determined as of the first day of the
9 first plan year for which this section is ef-
10 fective, over a period of 30 plan years, and

11 “(ii) for an employer who has made
12 its negotiated contribution for a plan year
13 beginning after December 31, 2003, and
14 before the funding effective date, the ex-
15 cess (if any) of—

16 “(I) the minimum funding re-
17 quirement determined under this sec-
18 tion for such plan year, over

19 “(II) the actual contribution
20 made to the plan for any such plan
21 year.

22 “(2) VALUATION OF ASSETS.—For purposes of
23 section 302(c)(2)(A), the actuarial value of assets of
24 a teamster plan as of the first day of the first plan
25 year for which this section is effective shall be the

1 fair market value of such assets as of such date. The
2 value of the assets attributable to each employer
3 shall be adjusted annually according to principles of
4 master trust accounting for the employer's plan con-
5 tributions, investment income (and loss), the employ-
6 er's benefit payments with respect to its ongoing li-
7 ability and transition liability (if any), and the em-
8 ployer's share of administrative expenses. Prospec-
9 tive investment experience may be reflected in ac-
10 cordance with section 302(c)(2) or any applicable
11 regulations issued by the Secretary of the Treasury.

12 “(3) ELECTION WITH RESPECT TO BONDS.—
13 The special election described in section
14 302(c)(2)(B) shall not apply.

15 “(4) CERTAIN RETROACTIVE PLAN AMEND-
16 MENTS.—Notwithstanding any other provision of
17 this section, a teamster plan shall be treated as a
18 multiemployer plan for purposes of section
19 302(c)(8)(A).

20 “(5) BENEFITS MAY NOT BE INCREASED UN-
21 LESS TEAMSTER PLAN IS SUFFICIENTLY FUNDED.—
22 In addition to the requirements of section 304(b)(1),
23 no amendment of a teamster plan which increases
24 the liabilities of the plan with respect to an employer
25 by reason of any increase in benefits, any change in

1 the accrual of benefits, or any change in the rate
 2 at which benefits become nonforfeitable under the
 3 plan shall be adopted and no increase in benefits at-
 4 tributable to an existing provision of a teamster plan
 5 (other than an increase that results solely from an
 6 increase in a participant's compensation, age or
 7 service or other similar factor), including an increase
 8 in benefits attributable to an increase in the nego-
 9 tiated contribution, shall take effect unless at the
 10 time such increase otherwise would be effective—

11 “(A) the percentage determined by divid-
 12 ing—

13 “(i) the lesser of the fair market value
 14 of the assets and the actuarial value of the
 15 assets attributable to the employer for the
 16 plan year in which the increase otherwise
 17 would be effective, by

18 “(ii) the employer's teamster plan cur-
 19 rent liability (determined using the highest
 20 rate of interest which is allowable for the
 21 plan year under section 302(d)(7)(C)) for
 22 the plan year in which the increase other-
 23 wise would be effective,
 24 is at least 90 percent, and

1 “(B) the percentage determined by divid-
 2 ing—

3 “(i) the amount described in subpara-
 4 graph (A)(i), by

5 “(ii) the sum of—

6 “(I) the amount described in sub-
 7 paragraph (A)(ii), and

8 “(II) the increase in the present
 9 value of future service benefits (taking
 10 into account the amendment or other
 11 circumstance resulting in such in-
 12 crease), determined using the highest
 13 rate of interest which is allowable for
 14 the plan year under section
 15 302(d)(7)(C) and the mortality as-
 16 sumptions required under section
 17 302(d)(7)(C), for the plan year in
 18 which the increase otherwise would be
 19 effective,

20 is at least 75 percent.

21 “(6) ADDITIONAL FUNDING REQUIREMENTS
 22 FOR TEAMSTER PLANS.—

23 “(A) For any plan year beginning on or
 24 after January 1, 2004, and before January 1,
 25 2034, the amount charged to the funding

1 standard account for the plan year shall be in-
2 creased by the amount which, after taking into
3 account charges and credits under section
4 302(b), is necessary to increase the funded cur-
5 rent liability percentage at the end of the plan
6 year (taking into account the expected change
7 in current liability due to benefits and interest
8 accruing during the plan year, expected dis-
9 bursements during the plan year, and the
10 change in the market value of assets due to in-
11 terest and expected disbursements during the
12 plan year) for the plan year to a percentage
13 equal to the sum of—

14 “(i) the funded current liability per-
15 centage at the beginning of the plan year,
16 and

17 “(ii) the lesser of 4 percent or the
18 percentage determined by dividing—

19 “(I) the excess of 90 percent over
20 the funded current liability percentage
21 as of the beginning of the plan year,
22 by

23 “(II) 30 minus the number of
24 plan years completed since the last

1 plan year beginning before January 1,
2 2004.

3 “(B) For any plan year beginning on or
4 after January 1, 2034, the amount charged to
5 the funding standard account for the plan year
6 shall be increased by the amount which, after
7 taking into account charges and credits under
8 section 302(b), is necessary to increase the
9 funded current liability percentage at the end of
10 the plan year (taking into account the expected
11 change in current liability due to benefits and
12 interest accruing during the plan year, expected
13 disbursements during the plan year, and the
14 change in the market value of assets due to in-
15 terest and expected disbursements during the
16 plan year) for the plan year to the lesser of—

17 “(i) 90 percent, and

18 “(ii) the sum of the funded current li-
19 ability percentage at the beginning of the
20 plan year and 4 percent.

21 “(C) The term ‘funded current liability
22 percentage’ means, with respect to any em-
23 ployer for any plan year, the percentage
24 which—

1 “(i) the lesser of the fair market value
2 of the assets and the actuarial value of the
3 assets attributable to the employer for the
4 plan year, is of

5 “(ii) the employer’s teamster plan cur-
6 rent liability.

7 “(7) SPECIAL RULES FOR SMALL TEAMSTER
8 PLANS.—

9 “(A) Paragraph (6) shall not apply to any
10 teamster plan for any plan year if on each day
11 during the preceding plan year such plan had
12 no more than 100 participants.

13 “(B) In the case of a teamster plan to
14 which subparagraph (A) does not apply and
15 which on each day during the preceding plan
16 year had no more than 150 participants, the
17 amount of the increase under paragraph (6) for
18 such plan year shall be equal to the product
19 of—

20 “(i) such increase determined without
21 regard to this subparagraph, multiplied by

22 “(ii) 2 percent for the highest number
23 of participants in excess of 100 on any
24 such day.

1 “(C) For purposes of this paragraph, all
 2 teamster plans maintained by the same em-
 3 ployer (or any member of such employer’s con-
 4 trolled group) shall be treated as 1 plan, but
 5 only employees of such employer or member
 6 shall be taken into account.

7 “(8) BENEFITS MAY NOT BE INCREASED BY
 8 REASON OF MINIMUM REQUIRED CONTRIBUTION.—A
 9 teamster plan may not provide for any increase in
 10 a participant’s benefit attributable to an increase in
 11 the minimum contributions determined under this
 12 section for any plan year to the extent such min-
 13 imum contributions exceed the negotiated contribu-
 14 tions for such plan year.

15 “(9) DEFINITIONS.—For purposes of this sec-
 16 tion—

17 “(A) UNFUNDED PAST SERVICE LIABIL-
 18 ITY.—The term ‘unfunded past service liability’
 19 means, with respect to each employer who, as
 20 of the first day of the first plan year for which
 21 this section is effective, has an obligation to
 22 contribute to a teamster plan, the excess of the
 23 employer’s teamster plan accrued liability deter-
 24 mined as of such date over the employer’s ini-
 25 tial market value of assets.

1 “(B) TEAMSTER PLAN ACCRUED LIABIL-
 2 ITY.—The term ‘teamster plan accrued liability’
 3 means, with respect to each employer who has
 4 an obligation to contribute to a teamster plan,
 5 the sum of the employer’s transition liability (if
 6 any) and the employer’s ongoing liability.

7 “(C) TRANSITION LIABILITY.—The term
 8 ‘transition liability’ means, with respect to each
 9 employer who, as of the first day of the first
 10 plan year for which this section is effective, has
 11 an obligation to contribute to a teamster plan,
 12 the product of—

13 “(i) the sum of

14 “(I) the accrued liability for the
 15 benefits under the plan (as a whole,
 16 as if such plan were treated as a sin-
 17 gle multiemployer plan rather than a
 18 collection of single-employer plans but
 19 taking into account the requirements
 20 of this section) attributable as of the
 21 first day of the first plan year for
 22 which this section is effective to par-
 23 ticipants who as of such date are not
 24 employed in credited service for any
 25 employer, and

1 “(II) the accrued liability for the
2 benefits under the plan (as a whole,
3 as if such plan were treated as a sin-
4 gle multiemployer plan rather than a
5 collection of single-employer plans but
6 taking into account the requirements
7 of this section) attributable as of the
8 first day of the first plan year which
9 this section is effective to the credited
10 service of participants (other than
11 participants described in (I) with an
12 employer that does not have an obli-
13 gation to contribute to the teamster
14 plan as of such date, and

15 “(ii) the percentage determined as of
16 the first day of the first plan year for
17 which this section is effective by dividing
18 the sum of the contributions required to be
19 made under such plan by the employer for
20 the 5 preceding plan years by the sum of
21 the contributions required to be made by
22 all such employers for the 5 preceding plan
23 years.

24 “(D) ONGOING LIABILITY.—The term ‘on-
25 going liability’ means, with respect to each em-

1 employer, the accrued liability for benefits under a
 2 teamster plan attributable to credited service
 3 with the employer for those participants who
 4 are employed in credited service with any em-
 5 ployer at any time on or after the first day of
 6 the first plan year for which this section is ef-
 7 fective.

8 “(E) TEAMSTER PLAN CURRENT LIABIL-
 9 ITY.—The term ‘teamster plan current liability’
 10 means, with respect to each employer who has
 11 an obligation to contribute to a teamster plan,
 12 the sum of the employer’s transition current li-
 13 ability (if any) and the employer’s ongoing cur-
 14 rent liability.

15 “(F) TRANSITION CURRENT LIABILITY.—
 16 The term ‘transition current liability’ means,
 17 with respect to each employer who, as of the
 18 first day of the first plan year for which this
 19 section is effective, has an obligation to con-
 20 tribute to a teamster plan, the product of—

21 “(i) the sum of—

22 “(I) the current liability (as de-
 23 fined under section 302(d)(7)) for the
 24 benefits under the plan (as a whole,
 25 as if such plan were treated as a sin-

1 gle multiemployer plan rather than a
2 collection of single-employer plans but
3 taking into account the requirements
4 of this section) attributable, as of the
5 first day of the first plan year for
6 which this section is effective, to par-
7 ticipants who as of such date are not
8 employed in credited service for any
9 employer, and

10 “(II) the current liability (as de-
11 fined under section 302(d)(7)) for the
12 benefits under the plan (as a whole,
13 as if such plan were treated as a sin-
14 gle multiemployer plan rather than a
15 collection of single-employer plans but
16 taking into account the requirements
17 of this section) attributable, as of the
18 first day of the first plan year for
19 which this section is effective section,
20 to the credited service of participants
21 (other than participants described in
22 (I)) with an employer that does not
23 have an obligation to contribute to the
24 teamster plan as of such date, and

“(ii) the percentage determined as of the first day of the first plan year for which this section is effective by dividing the sum of the contributions required to be made under such plan by the employer for the 5 preceding plan years by the sum of the contributions required to be made by all such employers for the 5 preceding plan years.

“(G) ONGOING CURRENT LIABILITY.—The term ‘ongoing current liability’ means, with respect to each employer, the current liability (as defined under section 302(d)(7)) for benefits under a teamster plan attributable to credited service with the employer for those participants who are employed in credited service with any employer at any time on or after the first day of the first plan year for which this section is effective date of this section.

“(H) EMPLOYER’S INITIAL MARKET VALUE OF ASSETS.—The term ‘employer’s initial market value of assets’ means, with respect to each employer who (as of the first day of the first plan year for which this section is effective) has an obligation to contribute to a teamster plan,

the product, determined as of the first day of the first plan year for which this section is effective, of the funded percentage for the teamster plan as of such date and the employer's teamster plan accrued liability as of such date.

“(I) FUNDED PERCENTAGE.—The term ‘funded percentage’ means, for each teamster plan, the amount determined by dividing the fair market value of the assets of the teamster plan (as a whole, as if such plan were treated as a single multiemployer plan rather than a collection of single-employer plans but taking into account the rules of this section), including receivables, as of the first day of the first plan year for which this section is effective, by the teamster plan accrued liability for the plan (as a whole, as if such plan were treated as a single multiemployer plan rather than a collection of single-employer plans but taking into account the rules of this section) as of such date.

“(J) ANTICIPATION OF FUTURE BENEFIT INCREASES.—For purposes of subparagraphs (A), (B), (C), (D), and (I) in determining accrued liability, the funding method of a plan shall anticipate benefit increases scheduled to

1 take effect during the term of the collective bar-
2 gaining agreement(s) applicable to the plan.

3 “(10) EMPLOYER.—

4 “(A) For purposes of this section, all em-
5 ployees of all corporations which are members
6 of a controlled group of corporations (within the
7 meaning of section 1563(a) of the Internal Rev-
8 enue Code of 1986, determined without regard
9 to section 1563(a)(4) and (e)(3)(C) of such
10 Code) shall be treated as employed by a single
11 employer.

12 “(B) For purposes of this section, under
13 regulations prescribed by the Secretary of the
14 Treasury, all employees of trades or businesses
15 (whether or not incorporated) which are under
16 common control shall be treated as employed by
17 a single employer. The regulations prescribed
18 under this subparagraph shall be based on prin-
19 ciples similar to the principles which apply in
20 the case of subparagraph (A).

21 “(11) EFFECTIVE DATE.—

22 “(A) IN GENERAL.—This section shall
23 apply to plan years beginning after December
24 31, 2003.

1 “(B) PERIODS BEFORE FUNDING EFFEC-
2 TIVE DATE.—

3 “(i) IN GENERAL.—Notwithstanding
4 any contrary provision, prior to the fund-
5 ing effective date, an employer shall not be
6 required to make the minimum contribu-
7 tions determined under this section and
8 shall not be treated as maintaining a sin-
9 gle-employer plan for purposes of sub-
10 sections (e) and (f) of section 302.

11 “(ii) For purposes of this subpara-
12 graph, the term ‘funding effective date’
13 means, with respect to each employer, the
14 earlier of—

15 “(I) the date on which the last
16 collective bargaining agreement rati-
17 fied before January 1, 2004 termi-
18 nates (determined without regard to
19 any extension thereof after January 1,
20 2004), and

21 “(II) January 1, 2009.

22 “(iii) SPECIAL RULE.—An employer
23 shall not be treated as having an accumu-
24 lated funding deficiency prior to the fund-
25 ing effective date solely by reason of failing

1 to make the minimum contributions deter-
 2 mined under this section, provided such
 3 employer makes its negotiated contribu-
 4 tions.”.

5 (2) CLERICAL AMENDMENT.—The table of con-
 6 tents in section 1 of such Act is amended by striking
 7 the item relating to sections 308 and inserting the
 8 following new items:

“Sec. 308. Teamster plans.

“Sec. 309. Effective dates.”.

9 (d) EFFECTIVE DATE.—Except as otherwise pro-
 10 vided herein, the amendments made by this section shall
 11 apply to plan years beginning after December 31, 2003.

12 **SEC. 4. CONFORMING AMENDMENTS TO INTERNAL REV-**
 13 **ENUE CODE OF 1986.**

14 (a) TEAMSTER PLANS NOT MULTIEMPLOYER PLAN
 15 FOR PURPOSES OF SECURITY REQUIREMENT.—Section
 16 401(a)(29) of the Internal Revenue Code of 1986 is
 17 amended by adding at the end the following new subpara-
 18 graph:

19 “(F) TEAMSTER PLANS.—For purposes of
 20 this paragraph, effective as of the funding effec-
 21 tive date as defined in section 412(o)(10), a
 22 teamster plan (as defined in section
 23 4001(a)(22) of the Employee Retirement In-
 24 come Security Act of 1974) shall not be treated

1 as a multiemployer plan, and each employer
 2 that has an obligation to contribute to a team-
 3 ster plan shall be treated as a contributing
 4 sponsor maintaining a single-employer plan in
 5 accordance with section 412(o).”.

6 (b) RULE RELATING TO PROHIBITION ON BENEFIT
 7 INCREASES WHILE SPONSOR IN BANKRUPTCY.—Section
 8 401(a)(33) of such Code is amended by redesignating sub-
 9 paragraph (D) as subparagraph (E) and by inserting after
 10 subparagraph (C) the following new subparagraph:

11 “(D) SPECIAL RULE FOR TEAMSTER
 12 PLANS.—For purposes of this paragraph, a
 13 teamster plan (as defined in section
 14 4001(a)(22) of the Employee Retirement In-
 15 come Security Act of 1974) shall not be treated
 16 as a multiemployer plan. This paragraph shall
 17 be applied separately with respect to each em-
 18 ployer that has an obligation to contribute to a
 19 teamster plan, and the funded current liability
 20 percentage for purposes of subparagraph (B)
 21 shall be determined in accordance with section
 22 412(o).”.

23 (c) RULES RELATING TO DEDUCTIBILITY OF CON-
 24 TRIBUTIONS.—

(1) IN GENERAL.—Section 404(a)(1) of such Code is amended by adding at the end thereof the following subparagraph:

“(F) SPECIAL RULE FOR TEAMSTER PLANS.—Notwithstanding any other provision of this subchapter, in the case of any teamster plan (as defined in section 4001(a)(22) of the Employee Retirement Income Security Act of 1974), the maximum amount deductible under the limitations of this paragraph for a plan year by an employer obligated to make contributions to such plan for such year shall not be less than the minimum contribution required by such employer for such year under section 412(o).”.

(2) LIMITATION ON DEDUCTIONS WHERE COMBINATION OF DEFINED CONTRIBUTION PLAN AND DEFINED BENEFIT PLAN.—Section 404(a)(7) is amended by inserting after subparagraph (D) the following new subparagraph:

“(E) TEAMSTER PLANS.—Subparagraph (A) shall not apply to that portion of the employer’s contribution to a teamster plan (as defined in section 4001(a)(22) of the Employee Retirement Income Security Act of 1974) to the extent such contribution is required as a result

1 of charges to the funding standard account de-
 2 scribed in section 412(o)(2)(B) or 412(o)(7).”.

3 (d) SPECIAL RULES FOR TEAMSTER PLANS.—Sec-
 4 tion 412 of such Code is amended by adding at the end
 5 the following new subsection:

6 “(o) TEAMSTER PLANS.—

7 “(1) IN GENERAL.—For purposes of this sec-
 8 tion other than subsection (l), a teamster plan (as
 9 defined in section 4001(a)(22) of the Employee Re-
 10 tirement Income Security Act of 1974) shall not be
 11 treated as a multiemployer plan, and each employer
 12 that has an obligation to contribute to a teamster
 13 plan shall be treated as a contributing sponsor main-
 14 taining a single-employer plan, subject to the special
 15 rules of this subsection.

16 “(2) FUNDING STANDARD ACCOUNT.—A fund-
 17 ing standard account shall be established and main-
 18 tained for each employer that has an obligation to
 19 contribute to a teamster plan. In determining the
 20 funding standard account under subsection (b) for
 21 each such employer—

22 “(A) subsections (b)(2)(B)(i) and
 23 (b)(2)(B)(ii) shall not apply;

24 “(B) in the case of a teamster plan in ef-
 25 fect on the first day of the first plan year for

1 which this subsection is effective, the funding
2 standard account shall be charged with—

3 “(i) the amount necessary to amortize
4 in equal annual installments (until fully
5 amortized) the employer’s unfunded past
6 service liability, over a period of 30 plan
7 years, and

8 “(ii) the amount necessary to amor-
9 tize over a period of 10 plan years in equal
10 annual installments (until fully amortized)
11 the credit determined under section
12 412(o)(2)(C)(ii) for the immediately pre-
13 ceding plan year; and

14 “(C) in the case of a teamster plan in ef-
15 fect on the first day of the first plan year for
16 which this subsection is effective, the funding
17 standard account shall be credited with—

18 “(i) the amount necessary to amortize
19 in equal annual installments (until fully
20 amortized) the excess (if any) of the em-
21 ployer’s initial market value of assets over
22 the employer’s teamster plan accrued li-
23 ability determined as of the first day of the
24 first plan year for which this subsection is

1 effective, over a period of 30 plan years;
 2 and

3 “(ii) for an employer who has made
 4 its negotiated contribution for a plan year
 5 beginning after December 31, 2003 and
 6 before the funding effective date, the ex-
 7 cess (if any) of—

8 “(I) the minimum funding re-
 9 quirement determined under this sec-
 10 tion for such plan year, over

11 “(II) the actual contribution
 12 made to the plan for any such plan
 13 year.

14 “(3) VALUATION OF ASSETS.—For purposes of
 15 subsection (c)(2)(A), the actuarial value of assets of
 16 a teamster plan as of the first day of the first plan
 17 year for which this subsection is effective shall be
 18 the fair market value of such assets as of such date.
 19 The value of the assets attributable to each employer
 20 shall be adjusted annually according to principles of
 21 master trust accounting for the employer’s plan con-
 22 tributions, investment income (and loss), the employ-
 23 er’s benefit payments with respect to its ongoing li-
 24 ability and transition liability (if any), and the em-
 25 ployer’s share of administrative expenses. Prospec-

1 tive investment experience may be reflected in ac-
2 cordance with subsection (c)(2) or any applicable
3 regulations issued by the Secretary.

4 “(4) ELECTION WITH RESPECT TO BONDS.—
5 The special election described in subsection
6 (c)(2)(B) shall not apply.

7 “(5) CERTAIN RETROACTIVE PLAN AMEND-
8 MENTS.—Notwithstanding any other provision of
9 this subsection, a teamster plan shall be treated as
10 a multiemployer plan for purposes of subsection
11 (c)(8)(A).

12 “(6) BENEFITS MAY NOT BE INCREASED UN-
13 LESS TEAMSTER PLAN IS SUFFICIENTLY FUNDED.—
14 In addition to the requirements of subsection (f)(1),
15 no amendment of a teamster plan which increases
16 the liabilities of the plan with respect to an employer
17 by reason of any increase in benefits, any change in
18 the accrual of benefits, or any change in the rate at
19 which benefits become nonforfeitable under the plan
20 shall be adopted and no increase in benefits attrib-
21 utable to an existing provision of a teamster plan
22 (other than an increase that results solely from an
23 increase in a participant’s compensation, age or
24 service or other similar factor), including an increase
25 in benefits attributable to an increase in the nego-

1 tiated contribution, shall take effect unless at the
 2 time such increase otherwise would be effective—

3 “(A) the percentage determined by divid-
 4 ing—

5 “(i) the lesser of the fair market value
 6 of the assets and the actuarial value of the
 7 assets attributable to the employer for the
 8 plan year in which the increase otherwise
 9 would be effective, by

10 “(ii) the employer’s teamster plan cur-
 11 rent liability (determined using the highest
 12 rate of interest which is allowable for the
 13 plan year under subsection (l)(7)(C)) for
 14 the plan year in which the increase other-
 15 wise would be effective,

16 is at least 90 percent, and

17 “(B) the percentage determined by divid-
 18 ing—

19 “(i) the amount described in subpara-
 20 graph (A)(i), by

21 “(ii) the sum of—

22 “(I) the amount described in sub-
 23 paragraph (A)(ii), and

24 “(II) the increase in the present
 25 value of future service benefits (taking

1 into account the amendment or other
 2 circumstance resulting in such in-
 3 crease), determined using the highest
 4 rate of interest which is allowable for
 5 the plan year under subsection
 6 (l)(7)(C) and the mortality assump-
 7 tions required under subsection
 8 (l)(7)(C), for the plan year in which
 9 the increase otherwise would be effec-
 10 tive,

11 is at least 75 percent.

12 “(7) ADDITIONAL FUNDING REQUIREMENTS
 13 FOR TEAMSTER PLANS.—

14 “(A) For any plan year beginning on or
 15 after January 1, 2004, and before January 1,
 16 2034, the amount charged to the funding
 17 standard account for the plan year shall be in-
 18 creased by the amount which, after taking into
 19 account charges and credits under subsection
 20 (b), is necessary to increase the funded current
 21 liability percentage at the end of the plan year
 22 (taking into account the expected change in
 23 current liability due to benefits and interest ac-
 24 cruing during the plan year, expected disburse-
 25 ments during the plan year, and the change in

the market value of assets due to interest and expected disbursements during the plan year) for the plan year to a percentage equal to the sum of—

“(i) the funded current liability percentage at the beginning of the plan year, and

“(ii) the lesser of 4 percent or the percentage determined by dividing—

“(I) the excess of 90 percent over the funded current liability percentage as of the beginning of the plan year, by

“(II) 30 minus the number of plan years completed since the last plan year beginning before January 1, 2004.

“(B) For any plan year beginning on or after January 1, 2034, the amount charged to the funding standard account for the plan year shall be increased by the amount which, after taking into account charges and credits under subsection (b), is necessary to increase the funded current liability percentage at the end of the plan year (taking into account the expected

change in current liability due to benefits and interest accruing during the plan year, expected disbursements during the plan year, and the change in the market value of assets due to interest and expected disbursements during the plan year) for the plan year to the lesser of—

“(i) 90 percent, and

“(ii) the sum of the funded current liability percentage at the beginning of the plan year and 4 percent.

“(C) For purposes of this paragraph, the term ‘funded current liability percentage’ means, with respect to any plan year, the percentage which—

“(i) the lesser of the fair market value of the assets and the actuarial value of the assets attributable to the employer for the plan year, is of

“(ii) the employer’s teamster plan current liability.

“(8) SPECIAL RULES FOR SMALL TEAMSTER PLANS.—

“(A) Paragraph (7) shall not apply to any teamster plan for any plan year if on each day

1 during the preceding plan year such plan had
2 no more than 100 participants.

3 “(B) In the case of a teamster plan to
4 which subparagraph (A) does not apply and
5 which on each day during the preceding plan
6 year had no more than 150 participants, the
7 amount of the increase under paragraph (7) for
8 such plan year shall be equal to the product
9 of—

10 “(i) such increase determined without
11 regard to this subparagraph, multiplied by

12 “(ii) 2 percent for the highest number
13 of participants in excess of 100 on any
14 such day.

15 “(C) For purposes of this paragraph, all
16 teamster plans maintained by the same em-
17 ployer (or any member of such employer’s con-
18 trolled group) shall be treated as 1 plan, but
19 only employees of such employer or member
20 shall be taken into account.

21 “(9) BENEFITS MAY NOT BE INCREASED BY
22 REASON OF MINIMUM REQUIRED CONTRIBUTION.—A
23 teamster plan may not provide for any increase in
24 a participant’s benefit attributable to an increase in
25 the minimum contributions determined under this

1 subsection for any plan year to the extent such min-
 2 imum contributions exceed the negotiated contribu-
 3 tions for such plan year.

4 “(10) DEFINITIONS.—For purposes of this sub-
 5 section—

6 “(A) UNFUNDED PAST SERVICE LIABIL-
 7 ITY.—The term ‘unfunded past service liability’
 8 means, with respect to each employer who (as
 9 of the first day of the first plan year for which
 10 this subsection is effective) has an obligation to
 11 contribute to a teamster plan, the excess of the
 12 employer’s teamster plan accrued liability as of
 13 such date over the employer’s initial market
 14 value of assets.

15 “(B) TEAMSTER PLAN ACCRUED LIABIL-
 16 ITY.—The term ‘teamster plan accrued liability’
 17 means, with respect to each employer who has
 18 an obligation to contribute to a teamster plan,
 19 the sum of the employer’s transition liability (if
 20 any) and the employer’s ongoing liability.

21 “(C) TRANSITION LIABILITY.—The term
 22 ‘transition liability’ means, with respect to each
 23 employer who, as of the first day of the first
 24 plan year for which this subsection is effective,

1 has an obligation to contribute to a teamster
2 plan, the product of—

3 “(i) the sum of—

4 “(I) the accrued liability for the
5 benefits under the plan (as a whole,
6 as if such plan were treated as a sin-
7 gle multiemployer plan rather than a
8 collection of single-employer plans but
9 taking into account the requirements
10 of this subsection) attributable, as of
11 the first day of the first plan year for
12 which this subsection is effective, to
13 participants who as of such effective
14 date are not employed in credited
15 service for any employer, and

16 “(II) the accrued liability for the
17 benefits under the plan (as a whole,
18 as if such plan were treated as a sin-
19 gle multiemployer plan rather than a
20 collection of single-employer plans but
21 taking into account the requirements
22 of this subsection) attributable as of
23 the first day of the first plan year for
24 which, this subsection is effective, to
25 the credited service of participants

1 (other than participants described in
 2 subclause (I)) with an employer that
 3 does not have an obligation to con-
 4 tribute to the teamster plan as of
 5 such date, and

6 “(ii) the percentage determined as of
 7 the first day of the first plan year for
 8 which this subsection is effective by divid-
 9 ing the sum of the contributions required
 10 to be made under such plan by the em-
 11 ployer for the 5 preceding plan years by
 12 the sum of the contributions required to be
 13 made by all such employers for the 5 pre-
 14 ceding plan years.

15 “(D) ONGOING LIABILITY.—The term ‘on-
 16 going liability’ means, with respect to each em-
 17 ployer, the accrued liability for benefits under a
 18 teamster plan attributable to credited service
 19 with the employer for those participants who
 20 are employed in credited service with any em-
 21 ployer at any time on or after the first day of
 22 the first plan year for which this section is ef-
 23 fective.

24 “(E) TEAMSTER PLAN CURRENT LIABIL-
 25 ITY.—The term ‘teamster plan current liability’

means, with respect to each employer who has an obligation to contribute to a teamster plan, the sum of the employer's transition current liability (if any) and the employer's ongoing current liability.

“(F) TRANSITION CURRENT LIABILITY.—

The term ‘transition current liability’ means, with respect to each employer who, as of the first day of the first plan year for which this subsection is effective, has an obligation to contribute to a teamster plan the product of—

“(i) the sum of—

“(I) the current liability (as defined under subsection (l)(7)) for the benefits under the plan (as a whole, as if such plan were treated as a single multiemployer plan rather than a collection of single-employer plans but taking into account the requirements of this subsection) attributable as of the first day of the first plan year for which this subsection is effective to participants who as of such effective date are not employed in credited service for any employer, and

1 “(II) the current liability (as de-
2 fined under subsection (l)(7)) for the
3 benefits under the plan (as a whole,
4 as if such plan were treated as a sin-
5 gle multiemployer plan rather than a
6 collection of single-employer plans but
7 taking into account the requirements
8 of this subsection) attributable as of
9 the first day of the first plan year for
10 which this subsection is effective to
11 the credited service of participants
12 (other than participants described in
13 subclause (I)) with an employer that
14 does not have an obligation to con-
15 tribute to the teamster plan as of
16 such date, and

17 “(ii) the percentage determined as of
18 the first day of the first plan year for
19 which this subsection is effective by divid-
20 ing the sum of the contributions required
21 to be made under such plan by the em-
22 ployer for the 5 preceding plan years by
23 the sum of the contributions required to be
24 made by all such employers for the 5 pre-
25 ceding plan years.

1 “(G) ONGOING CURRENT LIABILITY.—The
 2 term ‘ongoing current liability’ means, with re-
 3 spect to each employer, the current liability (as
 4 defined under subsection (l)(7)) for benefits
 5 under a teamster plan attributable to credited
 6 service with the employer for those participants
 7 who are employed in credited service with any
 8 employer at any time on or after the first day
 9 of the first plan year for which this subsection
 10 is effective.

11 “(H) EMPLOYER’S INITIAL MARKET VALUE
 12 OF ASSETS.—The term ‘employer’s initial mar-
 13 ket value of assets’ means with respect to each
 14 employer who, as of the first day of the first
 15 plan year for which this subsection is effective,
 16 has an obligation to contribute to a teamster
 17 plan, the product determined as of the first day
 18 of the first plan year for which this subsection
 19 is effective of the funded percentage for the
 20 teamster plan as of such date and the employ-
 21 er’s teamster plan accrued liability as of such
 22 date.

23 “(I) FUNDED PERCENTAGE.—The term
 24 ‘funded percentage’ means, for each teamster
 25 plan, the amount determined by dividing—

“(i) the fair market value of the assets of the teamster plan (as a whole, as if such plan were treated as a single multi-employer plan rather than a collection of single-employer plans but taking into account the requirements of this subsection) including receivables, as of the first day of the first plan year for which this subsection is effective, by

“(ii) the teamster plan accrued liability for the plan (as a whole, as if such plan were treated as a single multiemployer plan rather than a collection of single-employer plans but taking into account the requirements of this subsection), as of such date.

“(J) ANTICIPATION OF FUTURE BENEFIT INCREASES.—For purposes of subparagraphs (A), (B), (C), (D), and (I) in determining accrued liability, the funding method of a plan shall anticipate benefit increases scheduled to take effect during the term of the collective bargaining agreement(s) applicable to the plan.

“(11) EFFECTIVE DATE.—

1 “(A) IN GENERAL.—This subsection shall
2 apply to plan years beginning after December
3 31, 2003.

4 “(B) PERIODS BEFORE FUNDING EFFEC-
5 TIVE DATE.—

6 “(i) IN GENERAL.—Notwithstanding
7 any contrary provision, prior to the fund-
8 ing effective date, an employer shall not be
9 required to make the minimum contribu-
10 tions determined under this subsection and
11 shall not be treated as maintaining a sin-
12 gle-employer plan for purposes of sub-
13 sections (m) and (n).

14 “(ii) FUNDING EFFECTIVE DATE.—
15 For purposes of this subparagraph, the
16 term ‘funding effective date’ means, with
17 respect to each employer, the earlier of—

18 “(I) the date on which the last
19 collective bargaining agreement rati-
20 fied before January 1, 2004, termi-
21 nates (determined without regard to
22 any extension thereof after January 1,
23 2004), or

24 “(II) January 1, 2009.

1 “(iii) SPECIAL RULE.—An employer
 2 shall not be treated as having an accumu-
 3 lated funding deficiency prior to the fund-
 4 ing effective date solely by reason of failing
 5 to make the minimum contributions deter-
 6 mined under this subsection, provided such
 7 employer makes its negotiated contribu-
 8 tions.”.

9 (e) CERTAIN RULES APPLICABLE TO COLLECTIVELY
 10 BARGAINED PLANS NOT TO APPLY TO TEAMSTER
 11 PLANS.—Subsection (b) of section 413 of such Code is
 12 amended by adding at the end the following new para-
 13 graph:

14 “(10) TEAMSTER PLANS.—Notwithstanding
 15 subsection (a), in the case of a teamster plan within
 16 the meaning of section 4001(a)(22) of the Employee
 17 Retirement Income Security Act of 1974, para-
 18 graphs (5), (6), and (7) shall not apply, and—

19 “(A) the minimum funding standard pro-
 20 vided by section 412 shall be determined in ac-
 21 cordance with subsection (o) of such section,

22 “(B) liability for taxes under section 4971
 23 shall be determined under section 4971(h), and

24 “(C) each employer that has an obligation
 25 to contribute to a teamster plan shall be treated

1 as maintaining a single-employer plan in ac-
 2 cordance with section 412(o) for purposes of
 3 determining the applicable limitation provided
 4 by section 404(a).”.

5 (f) MODIFICATION OF CONTROLLED GROUP
 6 RULES.—Subsections (b) and (c) of section 414 of such
 7 Code are each amended by inserting ‘412(o),’ after ‘411,’.

8 (g) MODIFICATION OF RULES ON MERGER AND CON-
 9 SOLIDATION OF PLANS, ETC.—Section 414(l) of such
 10 Code is amended by adding at the end the following new
 11 paragraph:

12 “(3) ASSETS OF TEAMSTER PLANS.—The assets
 13 allocated to an employer that has an obligation to
 14 contribute to a teamster plan (as defined in section
 15 4001(a)(22) of the Employee Retirement Income Se-
 16 curity Act of 1974) shall not be used to pay benefits
 17 for service of participants with other employers that
 18 have an obligation to contribute to such plan.”.

19 (h) TEAMSTER PLAN NOT TREATED AS MULTIEM-
 20 PLOYER PLAN UNDER SPECIAL RULES FOR MULTIEM-
 21 PLOYER PLANS.—

22 (1) IN GENERAL.—Subpart C of part I of sub-
 23 chapter D of chapter 1 of such Code is amended by
 24 adding at the end the following new section:

1 **“SEC. 418F. TEAMSTER PLANS.**

2 “For purposes of this subpart, a teamster plan (as
3 defined in section 4001(a)(22) of the Employee Retirement
4 Income Security Act of 1974) shall not be treated
5 as a multiemployer plan.”.

6 (2) The table of sections for such subpart C is
7 amended by adding at the end the following new
8 item:

“Sec. 418F. Teamster plans.”.

9 (i) **TEAMSTER PLAN NOT TREATED AS MULTIEM-**
10 **PLOYER PLAN UNDER TAX ON FAILURE TO MEET MIN-**
11 **IMUM FUNDING STANDARDS.**—Section 4971 of such Code
12 is amended by redesignating subsection (g) as subsection
13 (h) and by inserting after subsection (f) the following new
14 subsection:

15 “(g) **TEAMSTER PLANS.**—For purposes of this sec-
16 tion, effective as of the funding effective date as defined
17 in section 412(o)(10), a teamster plan (as defined in sec-
18 tion 4001(a)(22) of the Employee Retirement Income Se-
19 curity Act of 1974) shall not be treated as a multiemployer
20 plan, and each employer that has an obligation to con-
21 tribute to a teamster plan shall be treated as maintaining
22 a single-employer plan in accordance with section
23 412(o).”.

1 (j) EFFECTIVE DATE.—Except as otherwise provided
2 herein the amendments made by this section shall apply
3 to plan years beginning after December 31, 2003.

4 **SEC. 5. AMENDMENTS TO THE LABOR MANAGEMENT RELA-**
5 **TIONS ACT, 1947.**

6 (a) REQUIREMENTS RELATING TO LABOR ORGANIZA-
7 TIONS.—Section 8(a)(2) of the National Labor Relations
8 Act (29 U.S.C. 158(a)(2)) is amended by striking “pay;”
9 and inserting “pay: *Provided further*, That an employer
10 shall not be prohibited, in the case of a trust fund that
11 is part of a plan to which section 308 of the Employee
12 Retirement Income Security Act of 1974 or section 412(o)
13 of the Internal Revenue Code of 1986 applies, from mak-
14 ing contributions to the plan, otherwise required under
15 part 3 of subtitle B of title I of such Act or under section
16 412 of such Code, at the minimum levels required under
17 the applicable provisions of such sections 308 and 412(o),
18 or from making future contributions to such plan, other-
19 wise required under such part 3 or such section 412, at
20 negotiated levels, with respect to each such future con-
21 tribution for any period, reduced by the amount by which
22 the minimum contribution contributed for any prior con-
23 tribution period exceeded the negotiated contribution for
24 such period.”.

1 (b) REQUIREMENT TO BARGAIN COLLECTIVELY.—
2 Section 8(a)(5) of such Act (29 U.S.C. 158(a)(5)) is
3 amended by striking “section 9(a).” and inserting “section
4 9(a): *Provided*, That an employer shall not be prohibited,
5 in the case of a trust fund that is part of a plan to which
6 section 308 of the Employee Retirement Income Security
7 Act of 1974 or section 412(o) of the Internal Revenue
8 Code of 1986 applies, from making contributions to the
9 plan, otherwise required under part 3 of subtitle B of title
10 I of such Act or under section 412 of such Code, at the
11 minimum levels required under the applicable provisions
12 of such sections 308 and 412(o), or from making future
13 contributions to such plan, otherwise required under such
14 part 3 or such section 412, at negotiated levels, with re-
15 spect to each such future contribution for any period, re-
16 duced by the amount by which the minimum contribution
17 contributed for any prior contribution period exceeded the
18 negotiated contribution for such period.”.

19 (c) PROTECTIONS FOR AMOUNTS HELD IN TRUST.—
20 Section 302(c)(5) of the Labor Management Relations
21 Act, 1947 (29 U.S.C. 186(c)(5)) is amended by striking
22 “annuities;” and inserting “annuities: “*Provided further*,
23 That an employer shall not be prohibited, in the case of
24 a trust fund that is part of a plan to which section 308
25 of the Employee Retirement Income Security Act of 1974

1 or section 412(o) of the Internal Revenue Code of 1986
2 applies, from making contributions to the plan, otherwise
3 required under part 3 of subtitle B of title I of such Act
4 or under section 412 of such Code, at the minimum levels
5 required under the applicable provisions of such sections
6 308 and 412(o), or from making future contributions to
7 such plan, otherwise required under such part 3 or such
8 section 412, at negotiated levels, with respect to each such
9 future contribution for any period, reduced by the amount
10 by which the minimum contribution contributed for any
11 prior contribution period exceeded the negotiated contribu-
12 tion for such period;”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect January 1, 2004.

